

Policies and Procedures

Subject: HIPAA Complaints

Policy Number: HIPAA 3.3

Effective Date: 12/16/03

Entity Responsible: Division of General Counsel

Revision Date: 1/11/18

1. Purpose:

To provide a process for the receipt, review, investigation, documentation, mediation, and resolution of both privacy and security complaints filed with the Tennessee Department of Mental Health and Substance Abuse Services (TDMHSAS) and the Regional Mental Health Institutes (RMHIs) in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) as amended.

2. Policy:

All complaints must be documented, reviewed, investigated, mediated, and resolved as appropriate. Records must be maintained on each complaint in either written or electronic form. Such documentation and records must be maintained by the TDMHSAS Privacy Officer and the RMHIs Privacy Officers in relation to the RMHIs.

3. Procedure/ Responsibility:

- 3.1: All HIPAA complaints regarding Central Office must be referred to the TDMHSAS Privacy Officer. All HIPAA complaints regarding the RMHIs must be referred to the RMHI Privacy Officer. The RMHI Privacy Officer shall notify the TDMHSAS Privacy Officer of any complaints that they receive.
- 3.2: Complaints must be filed in writing, either on paper or electronically to ensure all information has been accurately recorded. Complaints regarding Central Office must be referred to the TDMHSAS Privacy Officer, and complaints regarding the RMHIs must be filed with the RMHI Privacy Officer.

- 3.2.1: If the complainant is unable to file a complaint in written form and needs special accommodations, he or she may seek assistance from the TDMHSAS Privacy Officer or the RMHI Privacy Officer who will help write his or her complaint, or a complaint may be filed by another person on the original complainant's behalf.
- 3.3: The complaint must include the name of the entity that is subject to the complaint, and a description of the act(s) or omission(s) believed to violate the applicable HIPAA privacy or security regulation(s) or violate any TDMHSAS policy or procedure related to HIPAA.
- 3.4: The TDMHSAS or RMHI Privacy Officer must acknowledge receipt of the complaint in written form by a letter to the complainant or to the complainant's legal representative as appropriate.
 - 3.4.1: The TDMHSAS or RMHI Privacy Officer's response letter must advise the complainant or their legal representative of their right to file a complaint with the United States Department of Health and Human Services (DHHS), Office for Civil Rights (OCR) within one hundred and eighty (180) days from the date of the act or omission which complainant alleges occurred.
- 3.5: All complaints received by the TDMHSAS Privacy Officer or the RMHI Privacy Officer must be reviewed and investigated by either the respective Privacy Officer or their designee within fifteen (15) business days of receipt of the written complaint. If such timeframe needs to be extended, written approval must be granted from either the Deputy Commissioner to the TDMHSAS Privacy Officer or the RMHI Chief Executive Officer to RMHI Privacy Officer.
- 3.6: After completion of the investigation, corrective action(s) must be recommended, if determined appropriate.
- 3.7: The complainant or complainant's legal representative must be advised in writing by the TDMHSAS Privacy Officer or the RMHI Privacy Officer of the investigation results, including recommendations for resolution.
- 3.8: The complaint or complainant's legal representative must be advised in writing by the TDMHSAS Privacy Officer or the RMHI Privacy Officer that the complainant or their legal representative have fifteen (15) business days from the date of receipt of the investigation results to request a review of that decision.
 - 3.8.1: The TDMHSAS Privacy Officer will review decisions concerning complaints filed with the RMHI Privacy Officer. The Deputy Commissioner, or a designee, must review decisions concerning any complaints filed with the TDMHSAS Privacy Officer.

- 3.9: All complaints, their disposition, and associated dates (including date the complaint was received, date the investigation was completed, and date the complainant or their legal representative was notified of investigation results) must be documented and maintained by the TDMHSAS Privacy Officer or the RMHI Privacy Officer in a written or an electronic log system for at least six (6) years from the date the complaint received.

4. Other Considerations:


4.1: Authority:

45 C.F.R §164.530(d)(1), (2); (j)(1), (2); *See Also:*
<https://www.hhs.gov/hipaa/filing-a-complaint/index.html>

Approved:

A handwritten signature in cursive script, appearing to read "Marie Williams", written over a horizontal line.

Commissioner

A handwritten date "1-11-18" written over a horizontal line.

Date